

## **DISCLAIMER**

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## **PETITION OF**

**UNITED TELEPHONE-SOUTHEAST, INC.**

**CASE NO. PUC-2002-00231**

**For Declaratory Judgment  
Interpreting Various Sections of the  
Code of Virginia, For Injunction  
Prohibiting the City of Bristol from  
Providing Telecommunications  
Services in Violation of State Law  
and for Other Relief**

## **HEARING EXAMINER'S RULING**

**March 12, 2003**

On December 12, 2002, United Telephone-Southeast, Inc. ("Sprint"), filed a petition for Declaratory Judgment Interpreting Various Sections of the Code of Virginia, for Injunction Prohibiting the City of Bristol from Providing Telecommunications Services in Violation of State Law and for Other Relief ("Petition"). Specifically, Sprint requested that: (i) its complaint against the City of Bristol d/b/a Bristol Virginia Utilities Board ("Bristol") be upheld; (ii) the Commission determine that Bristol has failed to comply with Virginia Law and that Bristol be required to come into compliance with applicable law; (iii) the Commission declare that Bristol is in violation of §§ 15.2-2160 A and D, 56-241.1, and 56-265.4:4 of the Code of Virginia; (iv) the Commission issue an injunction against Bristol prohibiting it from providing telecommunications services to the public until it has complied with the conditions set forth in Virginia law regarding the offering of telecommunications services by electric municipalities; (v) Bristol's proposed tariff be rejected, or in the alternative, suspended by the Commission until the tariff is compliant; and (vi) the Commission grant such other relief as is just and proper.

Based on the Petition, Bristol's Response filed on December 18, 2002, and the applicable law, the Commission issued an Order on December 19, 2002, in which it: (i) denied Sprint's request for injunctive relief; (ii) rejected Bristol's tariff submitted on November 27, 2002; (iii) ordered Bristol to file a revised tariff on or before December 26, 2002; (iv) assigned this matter to a Hearing Examiner; (v) directed the Staff to participate in this case; and (vi) ordered Bristol to file cost studies to support the prices for its basic local exchange service on or before January 31, 2003.

On January 13, 2003, Bristol filed a Motion for Extension of Time to File the Cost Study on Basic Local Exchange Service. Bristol explained that it recently had hired a consultant to prepare a total service long-run incremental cost ("TSLRIC") study and requested an extension until June 2, 2003, to complete the study. Counsel for Bristol advised that Sprint did not oppose the requested extension, provided that the extension is limited to sixty days. In addition, counsel for Bristol stated that Staff did not support or oppose the requested extension.

On January 24, 2003, a prehearing conference was held in the Commission's offices and attended by this Hearing Examiner and representatives of Sprint, Bristol, and Staff. During that meeting, the parties agreed to negotiate the specific methodology to be used to complete the ordered cost study and advise the Hearing Examiner on the agreed upon cost study methodology and any areas of disagreement on or before March 10, 2003. In addition, the parties agreed that Bristol's cost study should be filed ninety calendar days after the parties reach agreement on the cost study methodology or the Hearing Examiner rules on any areas of disagreement. Finally, the parties agreed to a general outline of a procedural schedule for the remainder of the case, including: (i) approximately forty days for Sprint, Staff, and any other interested party to file comments on Bristol's cost study; (ii) approximately thirty days for Bristol's response; and (iii) if necessary, a hearing to be held approximately five days after Bristol's response.

On March 10, 2003, Sprint and Bristol (collectively, the "Parties") filed a Joint Statement of the Parties, indicating that they agreed to a set of guidelines for the cost studies to be filed in this proceeding and had no areas of disagreement to report. The Parties stated that agreement to the guidelines "shall not be interpreted as a waiver on the part of either Sprint or [Bristol] of any factual or legal position, argument, or objection (including objections with respect to the compliance or non-compliance of the cost studies with the guidelines . . . ) supported by the record of this proceeding as it may develop; nor shall it be interpreted as a waiver of any right to discovery of either Sprint or [Bristol] in this proceeding."<sup>1</sup>

Sprint and Bristol are commended for their efforts to reach agreement on cost study guidelines. Accordingly,

**IT IS DIRECTED:**

(1) That a hearing is scheduled for September 9, 2003, at 10:00 a.m. for the purpose of receiving evidence on the Petition;

(2) That, on or before June 9, 2003, Bristol shall file with the Clerk of the Commission an original and fifteen copies of its cost studies to support the prices for its basic local exchange service, and shall simultaneously send a copy thereof to the Staff and each member of the service list;

(3) That, on or before July 25, 2003, Sprint shall file with the Clerk of the Commission an original and fifteen copies of any prefiled direct testimony and exhibits it intends to offer at the hearing. The prefiled direct testimony of Sprint may be in the form of questions and answers, narrative statement, or any other written documents which clearly state the nature of Sprint's claim, the specific relief sought, and the legal and factual reasons supporting the claim. In addition, on or before July 25, 2003, Sprint shall serve a copy of its prefiled direct testimony and exhibits to each person on the service list;

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<sup>1</sup> Joint Statement of the Parties at ¶ 2.

(4) That, on or before August 25, 2003, Bristol shall file with the Clerk of the Commission an original and fifteen copies of any testimony and exhibits it intends to present at the hearing, and shall simultaneously send a copy thereof to Staff and each member of the service list;

(5) That, on or before August 25, 2003, Staff shall file with the Clerk of the Commission an original and fifteen copies of any comments or testimony and exhibits it intends to present at the hearing and shall simultaneously send a copy thereof to each member of the service list; and

(6) That, on or before September 3, 2003, Sprint shall file an original and fifteen copies of any testimony and exhibits it intends to introduce in rebuttal, and simultaneously send a copy thereof to Staff and each member of the service list.

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Alexander F. Skirpan, Jr.  
Hearing Examiner